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5 Counsel for Defendant MITCHELL

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7 IN THE UNITED STATES DISTRICT COURT
8
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,) No. CR 13-00300 PJH
11)
12 Plaintiff,) STIPULATION AND ~~[PROPOSED]~~
13) ORDER TO CONTINUE BAIL REVIEW
14) HEARING DATE TO JUNE 27, 2013 AND
15) TO EXCLUDE TIME UNDER SPEEDY
16) TRIAL ACT
17)
18 ANTHONY MITCHELL,) The Hon. Kandis A. Westmore
19)
20 Defendant.) Date: May 30, 2013
21) Time: 9:30 a.m.
22)
23)
24)
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17 The above-captioned matter is set on May 30, 2013 before this Court for a status
18 regarding the conditions of Anthony Mitchell's release. In February 2013, Mr. Mitchell self-
19 surrendered in a related case for which he is on supervised release (08-CR-460 PJH). The
20 Probation Office had issued a Probation Form 12 alleging that Mr. Mitchell committed a new
21 criminal offense. At a bail hearing on February 20, 2013, the Honorable Donna M. Ryu ordered
22 Mr. Mitchell released on conditions that included electronic home monitoring. The government
23 opposed Mr. Mitchell's request to be released.

24 A few weeks later, the government filed a complaint based on the same charges alleged
25 in the Form 12. On March 27, 2013, Mr. Mitchell made an initial appearance on the complaint
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1 charging him with possession with intent to distribute a controlled substance, and this Court
2 ordered Mr. Mitchell released in this case on the same conditions that were set by Judge Ryu in
3 February on the related case.

4 Last week Mr. Mitchell had knee surgery. Because of this surgery, at his last magistrate
5 court appearance on May 15, 2013, this Court temporarily removed Mr. Mitchell's electronic
6 monitoring condition for his surgery and for his recovery needs. Because Mr. Mitchell is still
7 recovering from his surgery, the parties stipulate and agree that it is appropriate to continue the
8 bail review hearing to June 26, 2013 at 9:30 a.m. before the sitting United States Magistrate
9 Court. The purpose of the hearing is to assess when the electronic monitoring condition should
10 be reimposed as a condition of Mr. Mitchell's release.

11 The parties further stipulate and agree that all other terms of Mr. Mitchell's supervised
12 release in case number (08-CR-460 PJH) and his pretrial release conditions in this case shall
13 remain in effect. The Probation Officer assigned to supervise Mr. Mitchell has no objection to
14 this request.

15 Finally, the parties stipulate and agree that an exclusion of time is appropriate in this case
16 until June 26, 2013. The defense needs time to assess and to review the discovery and to collect
17 records and to research and assess the guideline range. For these reasons, the defense requests
18 additional time to prepare. Moreover, Mr. Mitchell's unavailability due to his surgery and
19 recovery is a further basis to exclude time in this case.

20 For these reasons, the parties stipulate and agree that the ends of justice served by this
21 continuance outweigh the best interest of the public and the defendant in a speedy trial. The
22 parties further agree that the failure to grant this continuance would unreasonably deny counsel
23 for defendant the reasonable time necessary for effective preparation, taking into account the
24 exercise of due diligence. Accordingly, the parties agree that the period of time from May 30,
25 2013 until June 26, 2013, should be excluded in accordance with the provisions of the Speedy
26 Trial Act, 18 U.S.C. §§ 3161(h)(7)(A) and (B)(iv), for effective preparation of defense counsel,

1 taking into account the exercise of due diligence. Additionally, time should be excluded
2 pursuant to Section 3161(h)(3)(A) based on Mr. Mitchell's unavailability.

3

4 DATED: May 28, 2013

/S/

BRIGID S. MARTIN

5 Assistant United States Attorney

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7 DATED: May 28, 2013

/S/

8 ANGELA M. HANSEN

9 Assistant Federal Public Defender

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ORDER

Based on the reasons provided in the stipulation of the parties above, the Court hereby

FINDS:

1. Given that the Court has temporarily lifted the electronic monitoring condition for defendant's surgery;

2. Given that defendant is still recovering from his surgery;

3. Given that the parties are in agreement that defendant's bail review hearing may be continued and given that the Probation Office has no objection to this request:

4. Given defense counsel's need to review the discovery in this case and that the defense needs additional time to collect records and to research and assess the sentencing guideline range;

5. Given that these above-listed tasks are necessary for the defense preparation of the case and that the failure to grant the requested continuance would unreasonably deny counsel for defendant the reasonable time necessary for effective preparation, taking into account the exercise of due diligence;

6. Given that Mr. Mitchell's surgery and recovery has made him unavailable until June 26, 2013;

7. Given that the ends of justice served by this continuance outweigh the best interest of the public and defendant in a speedy trial;

Based on these findings, it is ordered that the bail review hearing date of May 30, 2013, scheduled at 9:30 a.m., is vacated and reset for June 26, 2013 at 9:30 a.m., before the sitting United States Magistrate Judge. All other conditions of defendant's release shall remain in effect.

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2 It is further ordered that time is excluded pursuant to the Speedy Trial Act, 18 U.S.C. §§
3 3161(h)(7)(A) and (B)(iv) and pursuant to § 3161(h)(3)(A) from May 16, 2013 to June 26, 2013.

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May 29, 2013

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KANDIS A. WESTMORE
United States Magistrate Judge
